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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,833	04/12/2001	James K. Walker	NAN-105XC1	5073

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EXAMINER

VARGOT, MATHIEU D

ART UNIT	PAPER NUMBER
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1732

DATE MAILED: 01/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/833,833

Applicant(s)

WALKER ET AL.

Examiner

Mathieu D. Vargot

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 and 39-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 and 39-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

1.The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, 9, 10, 24-30 and 39-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blyler, Jr et al –018, either alone, or further in view of Blyler, Jr et al –808 for reasons of record noting the following.

Applicant has added claim 42 which calls for a specific continuous admitting rate into the heated enclosure of at least 5000 meters/hour. In that is maintained that one of ordinary skill in the art would have found it obvious to have modified the processing of Blyler, Jr et al –018 as continuous, the exact rate at which the polymeric tube is admitted into the enclosure is submitted as being an obvious feature dependent on the size of the fiber, temperature employed and diffusion rate for the dopant expected.

2.Claims 2, 4-8 and 11-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blyler, Jr et al –018 in view of Koike et al –621, either alone, or further in view of Blyler, Jr et al –808 as set forth in the previous action.

3.Applicant's arguments filed December 12, 2005 have been fully considered but they are not persuasive. Applicant repeats much of the same observations and objections to the rejection applied. However, as already noted, such is not persuasive of error in the rejection. While the embodiment of adding the buffer prior to the diffusion may indeed be for a batch process in the primary rejection, that fact has never been denied. Clearly, the primary reference is directed to a batch process, where the fiber is

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made, drawn and then placed in an oven on reels for the diffusion. However, this is done to test the properties of the fiber as desired. One of ordinary skill in this art, deciding that such testing is unnecessary, would clearly have desired to convert the batch processing of the primary reference into a continuous one. Blyler, Jr et al –808 is being applied to show that the formation of graded optical fiber using a diffusible additive is known to occur in a continuous manner. While the diffusing may occur prior to the winding of the fiber on a reel, such is not believed to be germane. Essentially, applicant continues to place a great deal of emphasis on the fact that the instant process is continuous. While admittedly the primary reference does not show a continuous process, the reason for this is due to checking the bandwidth of the fiber to ensure that such is not off spec. What if one of ordinary skill decided that such testing would not be necessary? Ordinarily, it is within the skill level to do away with a certain step if such is deemed unnecessary. If such were the case, would not applicant agree that the claims are obvious over Blyler, Jr et al –018?


4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mathieu D. Vargot whose telephone number is 571 272-1211. The examiner can normally be reached on Mon-Fri from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni, can be reached on 571 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Vargot  
January 6, 2006

  
Mathieu D. Vargot  
Primary Examiner  
Art Unit 1732

1/6/06